IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

WP(C).No. 7582 of 2004(C)

PETITIONER:

M.N. JANARDHANAN NAIR,
(EX.JC.54528 SUBEDAR CLERK GROUP-B)
E.M.E. (ARMY) RESIDING AT NEERATTU VILA
THEKKATHIL, KANNIMEL CHERRY,
KAVANAD P.O., KOLLAM-691 003.

BY ADV. SRI.B.SURESH KUMAR,
SMT.T.V.NEEMA.

RESPONDENTS:
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1. **THE UNION OF INDIA, REPRESENTED BY ITS DEFENCE SECRETARY, CENTRAL SECRETARIAT, NEW DELHI.**
2. **P.C.D.A. (P), (PRINCIPAL CONTROLLER OF DEFENCE ACCOUNTS, PENSIONS), DRAUPATI GHAT, ALLAHABAD - 211 014.**
3. **OFFICER-IN-CHARGE, EME RECORDS, EME RECORDS P.O., TRIMULGHERRY, SECUNDERABAD-21.**
4. **D.P.D.O. (DEFENCE PENSION DISBURSING OFFICER) POLAYATHODE, KOLLAM.**
5. **C.G.D.A. (CONTROLLER GENERAL OF DEFENCE ACCOUNTS) WEST BLOCK V, RAMAKRISHNAPURAM, NEW DELHI-66.**

BY ADV. SRI.DINESH R.SHENOY, ADDL.CGSC
SRI.CYRIAC KURIAN, CGSC
SRI.PARAMESWARAN NAIR, ASST. S.G.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.7582/2004:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE DISCHARGE CERTIFICATE ISSUED TO THE PETITIONER BY THE EME RECORDS, SECUNDERABAD.

EXT.P.2: COPY OF THE COMMUNICATION DTD. 14/07/1998 ISSUED BY THE MINISTRY OF DEFENCE, GOVERNMENT OF INDIA.

EXT.P.3: COPY OF THE COMMUNICATION DTD. 07/06/1999 ISSUED BY THE GOVERNMENT OF INDIA.

EXT.P.4: COPY OF THE COMMUNICATION DTD. 31/05/2000 ISSUED TO THE PETITIONER BY THE R.4.

EXT.P.5: COPY OF THE COMMUNICATION DTD. 28/09/2000 ISSUED TO THE PETITIONER BY THE R.3.

EXT.P.6: COPY OF THE COMMUNICATION DTD. 09/02/2001 ISSUED BY THE MINISTRY OF DEFENCE.

EXT.P.7: COPY OF THE CIRCULAR NO. 289 DTD. 29/10/2001 ISSUED BY THE R.2.

EXT.P.8: COPY OF THE COMMUNICATION DTD. 18/01/2002 ISSUED TO THE PETITIONER.

EXT.P.9: COPY OF THE JUDGMENT DTD. 03/06/2002 IN O.P. NO. 30137/2000.]

EXT.P.10: COPY OF THE LETTER DTD. 16/08/2002 ISSUED TO THE PETITIONER BY THE R.4.

EXT.P.11: COPY OF THE ORDER DTD. 03/07/2003 ISSUED BY THE R.3. TO THE R.2.

EXT.P.12: COPY OF THE JUDGMENT IN O.P. NO. 11283/2003 DTD. 07/08/2003 PASSED BY THIS HONOURABLE COURT.

EXT.P.13: COPY OF THE ORDER DTD. 18/12/2003 ISSUED FROM THE OFFICE OF THE R.2.

EXT.P.14: COPY OF THE REPRESENTATION DTD. 16/02/2004 SUBMITTED BY THE PETITIONER BEFORE THE R.5.

EXT.P.15: COPY OF THE COMMUNICATION DTD. 08/01/2004 ISSUED TO THE R.2. BY THE R.5.

EXT.P.16: COPY OF THE LETTER DTD. 21/02/2004 SUBMITTED BY THE PETITIONER BEFORE THE R.5.

W.P.(C). NO.7582/2004:

EXT.P.17: COPY OF THE COMMUNICATION DTD. 20/02/2004 ISSUED TO THE PETITIONER BY THE R.4.

EXT.P.18: COPY OF THE COMMUNICATION DTD. 16/08/2002 ISSUED FROM THE OFFICE OF THE R.5.

EXT.P.19: COPY OF THE ANNEXURE ISSUED ALONG WITH THE GOVERNMENT OF INDIA LETTER NO. 1 (6)/98/D/PENS/SERVICES DTD. 03/02/1998.

RESPONDENT'S EXHIBIT:

EXT.R1: COPY OF THE LETTER NO. J.C. 54528/FP (E) (1)/REV/PEN DTD. 07/01/2004.

//TRUE COPY//

prv.

KURIAN JOSEPH, J.

W.P(C)No.7582 of 2004

Dated this the 14th day of June, 2007

JUDGMENT

The writ petition is filed with the following prayers:-

> (i) issue a writ of certiorari or other appropriate writ, direction or order quashing Exts.P4, P5, P10, P13 and P17 as illegal.
>
> (ii) a declaration that the petitioner is entitled to get revised pension and arrears in the rank of Subedar Group 'B' for 33 years of service in view of Exts.P2, P3, P6, P7, P11 and P18 orders.
>
> (iii) a writ of mandamus or other appropriate writ, direction or order directing the respondents to disburse revised pension and arrears in the rank of Subedar Group 'B' for 33 years of service with interest and costs.

It is seen that the relief claimed by the petitioner had already been granted in Ext.P11 order dated 3-7-2003. According to the petitioner for implementation of the same the petitioner had to pursue the matter by issuing a notice in contempt proceedings, which resulted in Exts.P13 and P17. It is submitted that Ext.P13 is an order passed by a junior officer to the one who passed Ext.P11. It is also submitted that based on Ext.P11 only this court passed Ext.P12 judgment dated 7-8-2003 in

O.P.No.11283/2003 and thus the matter has attained finality. All that apart it is also seen that this court in the judgment dated 29-6-2006 in O.P.No.25608/2003 has directed the respondents to refix the pension of the petitioner and disburse the eligible benefits including arrears.

2. In view of the above facts and circumstances of the case Exts.P13 and P17 are only to be quashed. I do so. There will be a direction to the respondents to grant the benefits pursuant to Ext.P11 within a period of four months from the date of production of a copy of this judgment.

The writ petition is disposed of as above.

(KURIAN JOSEPH, JUDGE)

ahg.